

ARKANSAS SUPREME COURT

No. 08-78

CARL PRINCE/QADOSH
Appellant

v.

LARRY NORRIS, DIRECTOR,
ARKANSAS DEPARTMENT OF
CORRECTION
Appellee

Opinion Delivered October 23, 2008

PRO SE MOTION TO SUPPLEMENT
ADDENDUM [CIRCUIT COURT OF
JEFFERSON COUNTY, CV 2006-656,
HON. ROBERT H. WYATT, JR.,
JUDGE]

APPEAL DISMISSED; MOTION
MOOT.

PER CURIAM

In 2006, appellant Carl Prince/Qadosh, an inmate incarcerated in the Arkansas Department of Correction, filed a petition for writ of habeas corpus in Jefferson County Circuit Court. The circuit court dismissed the petition and appellant has lodged an appeal of that order in this court. The briefs have been filed and appellant now brings this motion to supplement the addendum in his brief. We do not reach the merits of the motion and must dismiss the appeal because the circuit court can no longer grant the relief requested by appellant.

An appeal of the denial of postconviction relief, including an appeal from an order that denied a petition for writ of habeas corpus, will not be permitted to go forward where it is clear that the appellant could not prevail. *Lukach v. State*, 369 Ark. 475, ___ S.W.3d ___ (2007) (per curiam). Here, appellant is no longer incarcerated in Jefferson County and it is therefore clear that he cannot prevail on appeal.

Any petition for writ of habeas corpus to effect the release of a prisoner is properly addressed

to the circuit court in the county in which the prisoner is held in custody, unless the petition is filed pursuant to Act 1780 of 2001. *Id.* Appellant did not invoke Act 1780. At the time that appellant filed his petition for writ of habeas corpus, appellant was incarcerated in Jefferson County. After lodging this appeal, appellant provided notice to one of our staff attorneys that he is now incarcerated in Lee County, and the Department of Correction records verify that change in location.

A circuit court does not have jurisdiction to release on a writ of habeas corpus a prisoner not in custody in that court's jurisdiction. *Pardue v. State*, 338 Ark. 606, 999 S.W.2d 198 (1999) (per curiam) (citing *Mackey v. Lockhart*, 307 Ark. 321, 819 S.W.2d 702 (1991)). Jefferson County Circuit Court does not now have jurisdiction to grant the relief sought. Even if appellant's petition had merit and the circuit court erred in dismissing the petition, appellant cannot now prevail on appeal. Accordingly, we dismiss the appeal and the motion to supplement is moot.

Appeal dismissed; motion moot.